



1444 9th Street
Santa Monica CA 90401

ph 310 451 1500
fax 310 496 1902

info@healthebay.org
www.healthebay.org

January 17, 2014

Sam Unger

Los Angeles Regional Water Control Board

320 W. 4th Street, Suite 200

Los Angeles, CA 90013

Via email: samuel.unger@waterboards.ca.gov; Rebecca.Christmann@waterboards.ca.gov

Re: Comments on Tentative Time Schedule Order No. R4-2014-XXX Requiring the City of Los Angeles (Inner Cabrillo Beach, Los Angeles Harbor) to Comply with Requirements Prescribed in Order No. R4-2012-0175

Dear Mr. Unger,

On behalf of Heal the Bay, we submit the following comments on the Tentative Time Schedule Order No. R4-2014-XXX ("TSO") requiring the City of Los Angeles (Inner Cabrillo Beach (ICB), Los Angeles Harbor) to comply with requirements prescribed in Order No. R4-2012-0175.

In general, Heal the Bay does not support the issuance of TSOs for past-due TMDLs, especially in situations where Permittees have been out of compliance for a lengthy period of time (in this case, nearly four years) and there has been no previous enforcement action taken by the Regional Board to set the permittee on the track towards compliance. We articulated our concerns with compliance schedules for TMDLs in a petition submitted to the State Water Resources Control Board on December 10, 2012 regarding the Los Angeles County Municipal Separate Storm Sewer System NPDES Permit (Order No. R4-2012-0175, NPDES Permit No. CAS004001). Moreover, implementing a TSO at a chronically polluted location long out of compliance sets a negative precedent and disincentive for storm water dischargers to take the measures needed to meet state bacteria standards and protect public health.

However, we acknowledge that unlike many other TMDLs in our Region, the City of Los Angeles has dedicated considerable effort to meet this TMDL since its adoption in 2004. Heal the Bay generally supports the efforts put forth by the City of Los Angeles to mitigate fecal indicator bacteria (FIB) levels at ICB, Los Angeles Harbor. We look forward to collaborating with the City on identifying additional measures to meet final wasteload allocations. For example, the City could hire a falconer to aid in the relocation of the beach's problematic shorebird population and install circulation devices (at least two) near the shoreline to enhance water movement.



The Regional Board should Discuss the Other Compliance Points at ICB

As an overarching comment, we would like clarification from the Regional Board on why the TSO only includes the ICB boat launch ramp (Station CB01), excluding the monitoring location near the restrooms (Station CB02) and closest to ICB's main swimming area? As you know, there are three compliance monitoring locations for this TMDL. What is the reasoning for limiting this TSO?

The TSO should Require Permanent Signage

If the Regional Board does approve the TSO, due to the number of allowable exceedance days proposed in the TSO, permanent signage should be posted along the shoreline warning the public to swim at their own risk. The signs should be removed only when water quality results have routinely fallen below state bacteria standards for at least one summer and one winter. This action should be included as a "task" in the implementation table.

The Port of Los Angeles should be held Accountable for Meeting Bacteria TMDL Standards at Cabrillo Beach

Cabrillo Beach's large jetty was created in the early 1900's to protect the adjacent Los Angeles Harbor from rough open-ocean conditions, thus separating the beach into two areas (outer (oceanside) and inner (harborside) beaches). As a result, the manmade harborside beach lacks adequate circulation, inhibiting the natural movement and dilution of bacteria.

The Los Angeles Harbor Bacteria TMDL also lists marina activities such as "...waste disposal from boats, boat deck and slip washing, swimmer "wash-off", restaurant washouts and natural sources from birds, waterfowl and other wildlife" as potential sources of bacteria. These activities exacerbate ICB's water quality problems, and the Port of Los Angeles should be included as a responsible party in meeting ICB's receiving water quality objectives.

In summary, adopting a TSO for ICB's boat launch ramp (Station #CB01) sets a bad precedent given the location's chronic pollution problem and four years of non-compliance with the TMDL. While we acknowledge the implementation measures taken by the City to comply with this particular TMDL, both the Regional Board and City acknowledge that the City is in violation of the TMDL and the Board should be requiring strong action to address this issue, rather than allowing for further delay. We ask that the Regional Board make the changes to the TSO described above, including holding the Port of Los Angeles responsible for meeting state water quality standards at ICB, and note that we will strongly oppose any other proposed TSOs for past-due TMDLs.



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If you have any questions or would like to discuss any of these comments, please feel free to contact us at (310) 451-1500. Thank you for your consideration of these comments.

Sincerely,

Amanda Griesbach, MS
Water Quality Scientist

Kirsten James, MESM
Science and Policy Director, Water Quality